

Appellant: R & R Heavy Equipment
5801 Maplewood SW
Albuquerque, NM 87102

Agent: N/A

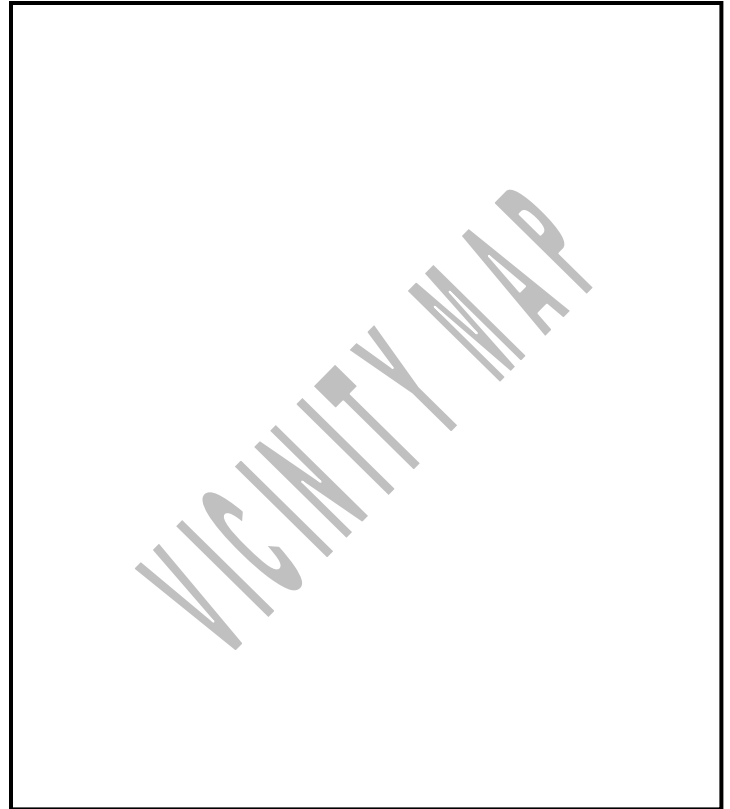
Applicant: R & R Heavy Equipment
5801 Maplewood SW
Albuquerque, NM 87102

Agent: N/A

Site Location: 5801 Douglas Rd. SW

Zone Designation: A-1 Rural Agricultural with a
SUP for a Contractor's Yard,
Gravel Extraction, Asphalt
Hot Plant, Office & Shop
Building (CSU-86-39)

Recommendation: Denial



Summary: This request is an appeal of the Zoning Administrator's decision in denying a proposed administrative amendment to the existing Special Use Permit (CSU-86-39). The property owner seeks approval to allow for changes to the site development plan and the overall layout of the site. Specifically, the proposed request seeks to expand the area of the property previously approved for the contractor's yard, place a second mobile home on the site to allow for a watchman/caretaker, and allow the placement of three (3) additional buildings on the parcel to be used for storage and sandblasting activities.

Staff Contact: Brennon Williams, Zoning Administrator

Attachments:

1. Appeal application
2. Notice of Decision (November 16, 2009)
3. Original application with provided site plan
4. Material presented in support of the request
5. Special Use Permit approval (Nov. 20, 1986) & approved site dev. plan
6. Agency comments for ZA application
7. Site photographs, aerial photograph, zone atlas page

BA-20100001/ZA-90116

R & R Heavy Equipment appeals the Zoning Administrator's decision in denying an administrative amendment to an existing Special Use Permit for a Contractor's Yard, Gravel Extraction, Asphalt Hot Plant, Office and Shop Building (CSU-86-39) to allow for alternate site layout and modified building placement on an unplatted parcel situated in the SE¼ of the NE¼ of the NW¼ of Section 28, Township 9 North, Range 2 East, located at 5801 Douglas Rd. SW, zoned A-1, and containing approximately 11.8 acres. (S-9) (Original request submitted by R & R Heavy Equipment)

BACKGROUND

The Request

The appellant is requesting that the Zoning Administrator's decision in denying a proposed administrative amendment to an existing Special Use Permit (CSU-86-39) be overturned. The property owner seeks authorization to allow for changes to the site development plan that reflect the current property layout and past modifications to building placement on the lot since original approval of the Special Use Permit by the Board of County Commissioners. These proposed changes include the expansion of a previously limited portion of the property used for a contractor's yard; the placement of a second mobile home for a watchman/caretaker on the property; and the allowance of three (3) additional buildings on the site – thereby creating 6,725 square feet of additional floor area on the lot – to allow for storage of equipment and materials, as well as add "sandblasting" activities to the operation of the existing business on the site.

The Property

The subject site is located at 5801 Douglas Rd. SW, zoned A-1, and is approximately 11.8 acres in area. The property is governed by a Special Use Permit for a Contractor's Yard, Gravel Extraction, Asphalt Hot Plant, Office and Shop Building (CSU-86-39).

The Hearing

The request was presented at the Zoning Administration hearing held on November 10, 2009. Rick Jaramillo, property owner and business operator, presented the request. Mr. Jaramillo testified that the purpose of the proposal was to obtain authorization from the county to add certain uses to the Special Use that were occurring on the site, while at the same time removing other uses that had been previously approved but no longer took place. He stated that powder coating and restoration work was occurring on various pieces of construction equipment, as well as approximately 50 vehicles at any given time, on the site; and that the previously approved gravel extraction and asphalt hot plant activities had been abandoned. He explained that the work on the construction equipment and vehicles typically took anywhere from two to four weeks to complete, and that this type of activity was much less intense and offensive than gravel extraction and an asphalt plant.

Mr. Jaramillo also indicated that the owner of the properties to the north and south of the subject site was in support of their application and provided a letter to this affect (Attachment 4). Additionally, a member of the community, Dominic Gonzales, spoke in support of the request.

A couple of people also testified in opposition to the proposal. Joe Ramos, a nearby property owner, stated that the existing business operations often involved the open-air painting of vehicles and heavy equipment. Mr. Ramos explained that his prior complaints to the county and Environmental Protection Agency about this issue were unresolved to his satisfaction, and that his primary complaint against the property was that it didn't provide "nice buildings".

Curtis Slade also expressed his displeasure with the proposal. As the operator of a gravel pit near the subject site, Mr. Slade stated that the applicants were not “good neighbors” and felt that the business operators were failing to disclose the lead-based content of the paint used on the site. Furthermore, he complained that the county historically did not allow other gravel operations to occur in the immediate area, and because of this, the applicant should be prohibited from performing these activities as well.

The Decision

The Zoning Administrator denied the request based on findings that the requested changes to the property would result in a more intense use of the land, as the proposal sought to expand a previously limited portion of the property used for a contractor’s yard; place a second mobile home for a watchman/caretaker; and grant the continued placement of three (3) additional buildings on the site, thereby creating an additional 6,725 square feet of building area. Similarly, as one of the three proposed buildings was reportedly used for “sandblasting” and powder coating activities, authorization of the request would add other uses not specifically permitted to occur from the site (ref. Section 18.C.3.).

Additionally, the Planning Department indicated that the proposal appeared to be too intense to be approved administratively, noted that the request would result in modifications to requirements previously imposed on the development plan, and that one type of use was proposed to be changed to another (ref. Section 24.A.2.j. of the ordinance) (Attachment 6).

APPLICABLE REGULATIONS

Comprehensive Zoning Ordinance of Bernalillo County.

Section 24.A.2. Administration. Zoning Administrator. Powers and Duties.

- j. Authorize amendments to approved special use development plans with the concurrence of the Planning Department, provided:
 - (1) That any such amendment shall result in an equal or less intense use of the land than that first approved by the Board of County Commissioners; and
 - (2) That no minimum requirement imposed on any development plan by the Board of County Commissioners would be modified.
 - (3) Applicants requesting an amendment to an existing Special Use Permit development plan shall adhere to the process outlined in the following section of this ordinance.

Section 18.C. Special Use Permit Regulations. Application procedures.

- 3. Notwithstanding any other provision of this Ordinance, an application that proposes to change a Special Use for another Special Use shall be processed as a new application.

Agency Comments

Comments received for this request from the Bernalillo County Planning Department stated that the proposal appeared to be too intense to be approved administratively, the request would result in modifications to requirements previously imposed on the development plan, and that one type of use was proposed to be changed to another. The Bernalillo County Building Department indicated construction permits and inspections were lacking for certain structures

on the site. County Environmental Health noted approved connection water and wastewater systems for various buildings on the site were lacking.

County Fire requested that the street address numbers be clearly posted on the property and that fire equipment have proper access to the lot. The Public Works Division noted some concern with development on the property not meeting the county Storm Drainage Ordinance, and that a Traffic Scoping Report would be necessary in connection with approval of the request.

INFORMATION SUBMITTED FOR THE APPEAL

Although the appellant reiterates their previous claims that the current uses on the site are less intense than that originally approved by the BCC, they also now state that the site plan used for comparison is from 1986.

ANALYSIS OF SUBMITTED MATERIAL

As with the original request, staff clearly understands the appellant's arguments seeking to justify the proposal. However, these opinions do not address the specified criteria as outlined in the zoning ordinance. The county is strictly limited regarding the types of proposals that can be approved administratively which affect an existing Special Use Permit. Consequently, the suggested changes to the permit fall outside of the parameters as established.

However, this does not deny the owners additional avenues for relief for the proposal. Without delay, the owner can make application through the area planner to have these changes reviewed and considered by the County Planning Commission and Board of County Commissioners.

RECOMMENDATION

Denial of BA-20100001/ZA-90116, thereby upholding the previous determination of the Zoning Administrator.

Brennon Williams
Zoning Administrator